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HOUSE BILL 555

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO LIQUOR CONTROL; CREATING A SPECIALTY LICENSE FOR
GIFT SHOPS TO PERMIT SALES OF NEW MEXICO WINES AND BEERS IN
UNBROKEN PACKAGES TO INCREASE TOURIST TRADE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 60, Article 6A NMSA
1978 is enacted to read:

"[NEW MATERIAL] GIFT SHOP LICENSE.--

A. A local option district may approve issuance of
gift shop licenses in that local option district by holding an
election on the question "Shall gift shops be permitted to sell
New Mexico wines and beers in unopened containers for
consumption off premises in the _____ local option
district?", pursuant to the procedures set out in Section
60-5A-1 NMSA 1978. The election also may be initiated by a

1 resolution adopted by the governing body of the local option
2 district without a petition from registered qualified electors
3 having been submitted.

4 B. If the majority of electors voting on the
5 question vote to allow gift shop sales of New Mexico wines and
6 beers, the governing body of the local option district shall
7 inform the director that gift shop licenses may be issued in
8 that local option district.

9 C. A gift shop licensee shall be subject to the
10 following requirements and restrictions:

- 11 (1) a person granted a gift shop license:
12 (a) shall not serve food or beverages,
13 except as permitted by this section;
14 (b) shall not own, lease or manage
15 another license issued pursuant to the Liquor Control Act; and
16 (c) shall not sell gasoline from the
17 licensed premises;
18 (2) the premises identified in an application
19 for a gift shop license shall not be the premises identified
20 for any other license issued pursuant to the Liquor Control
21 Act;
22 (3) a gift shop licensee shall submit reports
23 quarterly by the twenty-fifth day of the month following the
24 last month of the calendar quarter to the director indicating
25 the amount in each quarter of:

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1 (a) gross receipts from the sale of beer
2 and wine, including separate reporting of those sales made over
3 the internet, by mail order or sold from the licensed premises
4 but shipped out of state; and

5 (b) the total quarterly gross receipts;

6 (4) gift shop licensees shall only sell beer
7 and wine in unbroken packages produced in New Mexico by a
8 licensed winegrower or small brewer that is for consumption off
9 the licensed premises;

10 (5) the hours in which a gift shop licensee
11 may sell New Mexico beer and wine are from 10:00 a.m. to 8:00
12 p.m. Monday through Saturday;

13 (6) if Sunday sales have been approved in the
14 local option district, a gift shop licensee may sell New Mexico
15 beer and wine in unbroken packages on Sunday from 12:00 p.m.
16 through 8:00 p.m.;

17 (7) a gift shop license shall not be
18 transferable from person to person or from one location to
19 another and shall have a term of one year, expiring each July 1
20 following issuance;

21 (8) no more than the equivalent of four six
22 packs of twelve-ounce containers of beer or twelve seven
23 hundred fifty milliliter bottles of wine may be sold to any one
24 customer in one twenty-four-hour period; and

25 (9) the price of the wine or beer sold shall

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1 be at least one hundred sixty percent of the cost at which the
2 wine or beer was purchased by the gift shop licensee.

3 D. The total annual gross receipts from sales from
4 the licensed premises and the total gross receipts from the
5 sale of wine and beer shall be reported in the fourth quarter
6 report. The sales of wine and beer shall not exceed twenty
7 percent of the total annual gross receipts of the gift shop
8 licensee, except that gross receipts from internet sales, mail
9 order sales and sales of wine and beer from the licensed
10 premises but shipped out of state by the gift shop licensee
11 shall not be included in the calculation of the twenty percent
12 wine and beer sales from the licensed premises.

13 E. The wine and beer sold on the licensed premises
14 shall be held at room temperature and not chilled.

15 F. The provisions of Sections 60-6A-18 and 60-6B-10
16 NMSA 1978 do not apply to a gift shop license and shall not be
17 considered by the director in approving the issuance of a gift
18 shop license.

19 G. In addition to the gross receipts tax on the
20 sale of New Mexico wine and beer, a gift shop licensee shall
21 also pay liquor excise tax as required by law.

22 H. A licensee may offer samples of beer and wine
23 that the licensee has available for sale under the following
24 restrictions:

25 (1) a sample serving shall not exceed fifty

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1 milliliters;

2 (2) only one sample of each separate product
3 may be offered to or consumed by the same patron;

4 (3) a patron shall be limited to no more than
5 twelve samples in a four-hour period;

6 (4) a payment may not be accepted by the gift
7 shop licensee for the samples of the product offered and no
8 admission fee may be charged to enter the premises and sample
9 wine or beer;

10 (5) sampling shall be conducted on the
11 licensed premises and a patron may not leave the premises with
12 a sample of beer or wine;

13 (6) employees of the gift shop licensee:

14 (a) shall be twenty-one years of age or
15 older to sell or oversee sampling of wine and beer available
16 for sale on the premises of a gift shop licensee; and

17 (b) shall not be required to attend
18 alcohol server education training to oversee sampling of wine
19 and beer available for sale on the premises of a gift shop
20 licensee or to sell wine or beer from the premises of a gift
21 shop licensee;

22 (7) limited food samples may be offered free
23 of charge at the same time that beer and wine samples are
24 offered; and

25 (8) other than beer and wine that is being

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1 sampled, beer and wine shall not be available for consumption
2 on the premises of a gift shop licensee.

3 I. The fee to apply for a gift shop license is
4 three hundred dollars (\$300) for the first year and four
5 hundred dollars (\$400) for each renewal of a gift shop
6 license."

7 Section 2. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2009.

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